REMARKS

This Application has been carefully reviewed in light of the Office Action mailed on March 29, 2005. Claims 1-36 are pending in the Application. Claims 1-36 have been rejected in this Office Action. Examiner has allowed claim 37. Applicants respectfully request reconsideration and favorable action in this case.

Rejections Under 35 U.S.C. § 103:

Claims 1-7, 9, 12, 17-18, 20-25, 30, 35-36 have been rejected under 35 U.S.C. 103(a) over U.S. Patent No. 6,765,892 to Leung et al. ("*Leung*") in view of U.S. Patent No. 6,405,327 to Sipple et al. ("*Sipple*"). Claims 8-11, 13-16, 26-29, 31-34 have been rejected under 35 U.S.C. 103(a) over *Leung* in view of *Sipple* as applied to claims 1-7, 9, 17-18, 20-25, 35-36 in further view of U.S. Patent No. 6,781,999 to Eyuboglu et al ("*Eyuboglu*"). Applicants respectfully traverse.

Applicants' independent Claim 1 recites "a join request manager operable to receive a request to receive a multicast traffic flow, the request being received from one of the user devices within one of the user systems; and deny the request if a system metric is above a threshold." The combination of the references cited above do not teach this combination of limitations. The Office Action concedes that "Leung et al. does not disclose the limitation denying the request if a system metric is above a threshold" and relies on *Sipple* to teach this limitation. This reliance is misplaced. The cited portion of *Sipple* states:

> The memory utilization of scenario C (100 percent) will exceed both the early warning and actual performance thresholds for memory utilization. In this instance, a color coded message (preferably red) alerting the user of an actual performance bottleneck in the memory subsystem of the data processing system will be sent to the operator console.

This disclosure in *Sipple* only teaches alerting a computer user with a color coded message in the event of a performance bottleneck. *Sipple* does not teach a join request manager operable to deny a request if a system metric is above a threshold as is recited by Claim 1 of Applicants' invention. Indeed, *Sipple* does not teach requests nor does it teach denying requests. For at least this reason, Claim 1 is allowable, as

are Claims 2-18, which depend therefrom. Favorable action is requested. For analogous reasons, independent Claim 19 is also allowable, as are the claims depending therefrom, Claims 20-36. Favorable action is requested.

Reliance on Eyuboglu is Improper:

The rejection of claims 8-11, 13-16, 26-29, 31-34 is improper also because the Office Action relies on a reference that does not comprise prior art. The Office Action relies on *Eyuboglu*, however this reference was filed after applicants' invention. *Eyuboglu* was filed on July 23, 2001, while Applicants' invention was filed on June 27, 2001. Therefore, *Eyuboglu* does not constitute prior art and the rejection of claims 8-11, 13-16, 26-29, 31-34 is improper.
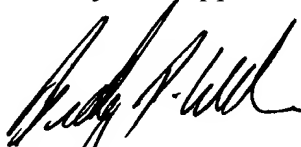
CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, please feel free to contact the undersigned attorney for Applicants.

Applicants do not believe that any fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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